



Tree Work Application Decision Notices

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For: Gorji, EMPIRE REAL ESTATE DEVELOPMENT LIMITED

TOWN AND COUNTRY PLANNING ACT 1990 Town & Country Planning (Tree Preservation)(England) Regulations 2012

NOTICE OF CONSENT TO FELL AND/OR PRUNE

Application Number: 2022/90401

In pursuance of its powers under the above mentioned Act and Regulations and the Tree Preservation Order made by the Kirklees Metropolitan Council (hereinafter called 'the Council') as Local Planning Authority and pursuant to the application submitted to the Council on 07-Feb-2022:-

THE COUNCIL HEREBY **CONSENTS** TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No. SP2/70/a6

At: West House, Oxford Road, Gomersal, Cleckheaton, BD19 4AU

T6, Oak - Crown reduction to promote retrenchment of the crown to prevent structural failure, details of specification to be agreed in writing with LPA prior to being carried out, see conditions below.

G8, Holly – remove (note two are not within the TPO area)

G13e, Beech – remove and replace as per conditions

G13g, Horse Chestnut – remove and replace as per conditions

G13h, Horse Chestnut – remove and replace as per conditions

G16c, Ash – remove and replace as per conditions

G17g, Beech – remove and replace as per conditions

T18, Sycamore – cut back regrowth to the main stem to create pollard

T36, Beech – remove and replace as per conditions

T37, Beech – remove and replace as per conditions

T38, Beech – remove and replace as per conditions

Please note

- A copy of the application documents can be viewed on line using the planning application search facility on the Council's web page: www.kirklees.gov.uk/trees
- Consent is not required for the removal of dead wood from protected trees
- The consent granted herein is conditional on the replacement of any removed trees as has previously been the case on this site though no evidence of necessary tree planting was noticed. Please refer to application 2018/91026 regarding the replacement trees required from previous consents.

SUBJECT TO THE FOLLOWING **CONDITIONS**:

1. This consent is valid for a period of two years and all tree operations carried out pursuant to this notice, including the replacement tree planting described in condition (2) must be completed within two years of the date of this notice.
Reason: To safeguard future tree cover and amenity and to accord with the requirements of the Town and Country Planning (Tree Preservation)(England) Regulations 2012
2. That within two years of the date of this notice, the felled tree(s) be replaced by 4x Beech, 2x Sycamore and 2 Horse Chestnut, 1.5-2m in height when planted, located within 1-2m of the original tree(s) and sourced and planted in accordance with BS5845.
Reason: To safeguard future tree cover and amenity. To ensure that the planting is carried out in accordance with good arboricultural practice.
3. Details of the crown reduction approved for tree no. T6 to be submitted and approved in writing to the LPA. Specification should promote retrenchment of the crown to prevent structural failure. Once approved work shall be carried out in accordance with the agreed specification.
Reason: To safeguard future tree cover and amenity. To ensure that tree work is carried out in accordance with good arboricultural practice. To protect the long term viability of the tree(s)
4. That all tree work, in pursuance of this notice, shall be carried out in accordance with British Standard 3998: 2010 Tree Work- Recommendations, including tree work safety and planning and that arisings shall not be burned on site.
Reason: To safeguard future tree cover and amenity. To ensure that tree work is carried out in accordance with good arboricultural practice. To protect the long term viability of the tree(s)
5. Within 2 months of the replacement tree(s) described in condition (2) being planted, written and/or photographic evidence shall be provided to the Local Planning Authority to demonstrate that the required replacement trees have been planted in accordance with the conditions of this decision notice.
Reason: To safeguard future tree cover and amenity.
6. That all replacement tree(s) described in condition (2) which are damaged, die, removed, uprooted or destroyed within 5 years of planting, be replaced by a new tree(s) of the same species, size and at the same place, as condition 2, to the satisfaction of the Local Planning Authority.
Reason: To safeguard future tree cover and amenity.

Notes to Applicant in Relation to Decision

1.

Any conditions you will find detailed therein are mandatory and enforceable under the Town and Country Planning Act 1990. You are deemed to have accepted them as stated if you either:

- i) Carry out works, or
- ii) Fail to appeal within 28 days of receipt of the notice

2.

Should you wish to initiate an appeal, you should do so within 28 days of receipt of the notice. Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://www.gov.uk/planning-inspectorate>. Further information on the Planning Appeal process can be found online at the Planning Inspectorates website <https://www.gov.uk/government/organisations/planning-inspectorate>.

3.

Road & Street Works Act 1991: It is possible that part or all of the consented works may present a safety risk to the public. IT IS IMPERATIVE that before any works commence advice on sign requirements and /or traffic control is sought from our Highways team, visit our website for more details:
<https://www.kirklees.gov.uk/beta/transport-roads-and-parking/kirklees-council-permit-scheme.aspx>

4.

Under section 1 and 9 of the Wildlife & Countryside Act 1981 (as amended): it is an offence to intentionally disturb or destroy any bird nest whilst it is in use or being built; or, to recklessly or intentionally damage or destroy a bat roost or, to cause disturbance or harm to bats.

5.

In no way does the Council accept any liability for damage to property or persons caused as a result of the work here authorised. Tree surgery can be very dangerous and the Council recommends strongly that a competent tree surgeon using appropriate safety equipment and with appropriate public liability insurance is employed.

6.

Consent for the tree work specified in this Notice relates only to the Town and Country Planning Act 1990 and is in principle only. If the work to be undertaken relates to trees growing on land owned by a third party, permission must be obtained from that third party before undertaking any work which requires access onto or over their land.

7.

Subject to the provision of the Tree Preservation Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under the Order or of any grant of any such consent subject to conditions shall, if he/she makes a claim within the time and in the manner prescribed by the Order, be entitled to recover from the Council compensation in respect of such loss or damage, provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any tree the subject of a certificate in accordance with Article 5 of the Order

In assessing compensation so payable, account shall be taken of:

- a) Any compensation or contribution which has been paid whether to the claimant or any other person in respect of the same trees under the terms of the said or any other Tree Preservation Order under section 29 of the Town and Country Planning Act 1962, or under section 203 of the Town and Country Planning Act 1990, or under the terms of any Interim Preservation Order made under section 8 of the Town and Country Planning (Interim Department) Act 1943, or any compensation which has been paid or could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932; and
- b) Any injurious affection to any land of the owner which would result from the felling of trees subject of the claim.

A claim for compensation under the Order shall be in writing and shall be made by serving it on the Council, such service to be effected by delivering the claim at the offices of the Council addressed to the proper Officer thereof or by sending it by prepaid post so addressed, within 12 months from the date of the decision of the Council, or of the Secretary of State against the decision of the Council from the date of the decision of the Secretary of State on the appeal.

Any questions or disputed compensation will be determined in accordance with the provisions of section 179 of the Act (or as amended).

THE REASONS FOR THE COUNCIL'S DECISION TO **GRANT** CONSENT SUBJECT TO THE **CONDITIONS** SPECIFIED ABOVE ARE:

- i. To ensure future tree cover and amenity.
- ii. To ensure the continued health of the tree(s).
- iii. In the interest of appropriate arboricultural management.
- iv. In the interest of public and/or personal safety.

Dated: 04-Apr-2022

Signed:



David Shepherd
Strategic Director Growth and Regeneration

If you have any questions about the above decision then please contact the application's Case Officer Nick Goddard quoting application number 2022/90401 via one of the following methods:

Call: 01484 414909

E-mail: trees.planning@kirklees.gov.uk

Write to: Kirklees Council
Planning and Development Service
PO Box 1720
Huddersfield
HD1 9EL



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For: Gorji, EMPIRE REAL ESTATE DEVELOPMENT LIMITED

TOWN AND COUNTRY PLANNING ACT 1990 Town & Country Planning (Tree Preservation)(England) Regulations 2012

NOTICE OF REFUSAL OF CONSENT TO FELL AND/OR PRUNE

Application Number: 2022/90401

In pursuance of its powers under the above mentioned Act and Regulations and the Tree Preservation Order made by the Kirklees Metropolitan Council (hereinafter called 'the Council') as Local Planning Authority and pursuant to the application submitted to the Council on 07-Feb-2022:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No. SP2/70/A6

At: West House, Oxford Road, Gomersal, Cleckheaton, BD19 4AU

The work as specified in the application to the below trees

T3a, Chestnut

T3b, Chestnut

T6, Oak

T11, Holm Oak

T12, Copper Beech

G13f, Beech

G13i, Horse Chestnut

G13j, Horse Chestnut

G16d, Beech

G17d, Beech

G17h, Elm

T24, Beech

T52, Turkey Oak

The **REASONS** for the Council's decision to refuse to grant consent are:

1. These trees are part of a prominent landscape feature in the locality and as such contribute significantly to public amenity consequently the grounds for their pruning or removal must be weighed against the amenity they provide.
2. Consent was granted for the removal of tree T3a in 2016 however it was not removed, and the tree has not deteriorated in that time. Officers could see no major obvious defects other than the historic bark damage caused by a fire. The tree had responded well to the damage and appeared in good health. Bark has occluded at the edges of the fire damage and the crown appears full and healthy with good vigour. No justification has been presented to remove the tree or to suggest why the bark is significant enough to warrant its removal now.
3. The tree T3b, was leaning however it did not appear in a poor condition and exhibited only one broken branch stub. Moreover, the tree is mature and has been growing at this location for many years; it is adapted to its leaning position and no signs of root plate movement or other signs of potential failure were evident.
4. The tree T6, was previously granted consent for careful staged reduction due to it being considered a veteran that may be at risk of major structural failure. This work was not carried out. The tree provides significant habitat and amenity value and is considered an irreplaceable habitat by the NPPF, as such the reasons given for the removal of this tree are insufficient to justify the works. Consent has been granted for the first stage of retrenchment pruning.
5. The tree T11, did present growth patterns as identified in the submitted information. Longitudinal ribs are common on this species however and are not evidence of significant hazard formation. The tree provided significant amenity and contributed to the character of the property. No fungal fruiting bodies were noted of any significance on the tree and no evidence was provided of its significance.
6. Tree T12, displayed large pruning wounds present on the main stem of the tree however these were not considered to be affected by decay or to compromise the tree's structure. The fungal bracket on one wound was *Daedalea quercina* or *Mazegill*, which has limited significance for tree safety, according to 'Principles of Tree Hazard Assessment and Management', and no evidence was provided to support the recommendation to remove this tree.
7. The tree G13f, displayed no major obvious defects and no bark wounds or basal decay was found to support the justification to remove the tree. Insufficient evidence was provided to justify the removal of this tree.
8. The trees G13i and G13j display no significant infection of Horse Chestnut Bleeding Canker. The trees appeared in good health and no evidence of decay was noted. Insufficient evidence was provided to justify the removal of these two trees.
9. The tree G16d, appeared in good health and to have sound wood around all root buttresses, an area commonly affected by the fungi noted in the report. No evidence could be found of the fungi around the tree but it shows on the photo submitted. Insufficient evidence was provided to demonstrate that *Kretzschmaria* is significantly affecting the tree given its good health and no evidence of extensive colonisation of the fungi, we would be happy to consider a new application supported by additional investigation such as a Picus Tomograph, micro drilling or other decay detection of the root buttresses and low stem.
10. The tree, G17d, did display bark wounds around the base however the tree appeared in good health and the exposed wood to be in a sound condition with no

sign of decay. There was insufficient evidence to support the recommendation to remove the tree.

11. The tree, G17h, was leaning however the stem appeared sound and is adapted to its leaning position and no signs of root plate movement or other signs of potential failure were evident. The fungi in submitted photos is saproxylic and not likely to be harming the tree's structure and would therefore not justify the removal of this tree.
12. The tree, T24, no evidence was provided to support the recommendation to fell this tree. Moreover, the tree is mature and has been growing at this location for many years; it is adapted to its leaning position and no signs of root plate movement or other signs of potential failure were evident.
13. The tree, T52, had suffered a main leader failure high in canopy on one leader. This leader and its side branches may benefit from some reduction work. The tree however appeared in good health and the reduction specified of the whole tree canopy could not be justified. The specification was excessive and would likely be harmful to the long-term health and amenity value of the tree.

Notes to Applicant Regarding Decision

1.

Should you wish to initiate an appeal, you should do so within 28 days of receipt of the notice. For an application form and further information please contact The Planning Inspectorate on 0117 372 6382 or have a look on their website www.planningportal.gov.uk/appeal

2.

Subject to the provision of the Tree Preservation Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under the Order or of any grant of any such consent subject to conditions shall, if he/she makes a claim within the time and in the manner prescribed by the Order, be entitled to recover from the Council compensation in respect of such loss or damage, provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any tree the subject of a certificate in accordance with Article 5 of the Order

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- b) Any injurious affection to any land of the owner which would result from the felling of trees subject of the claim.

A claim for compensation under the Order shall be in writing and shall be made by serving it on the Council, such service to be effected by delivering the claim at the

offices of the Council addressed to the proper Officer thereof or by sending it by prepaid post so addressed, within 12 months from the date of the decision of the Council, or of the Secretary of State against the decision of the Council from the date of the decision of the Secretary of State on the appeal.

Any questions or disputed compensation will be determined in accordance with the provisions of section 179 of the Act (or as amended).

Dated: 04-Apr-2022

Signed:



David Shepherd
Strategic Director Growth and Regeneration

If you have any questions about the above decision then please contact the application's Case Officer Nick Goddard quoting application number 2022/90401 via one of the following methods:

Call: 01484 414909

E-mail: trees.planning@kirklees.gov.uk

Write to: Trees Section
Investment and Regeneration
PO Box B93
Civic Centre III
Off Market Street
Huddersfield
HD1 2JR

Guidance Notes Choosing a Tree Work Contractor (Tree Surgeon)

The Council does not approve or promote any private contractors, nor does it affiliate itself with any specific companies. If any company says they are Council approved or trained you should seek clarification as to which Council it is referring to and if you are not satisfied check with the authority concerned.

There are schemes running which produce a directory of approved contractors and companies. The Arboriculture Association (www.trees.org.uk) and Trust Mark (www.trustmark.org.uk) are examples of such schemes.

If you are looking for a company or contractor to carry out tree work, tree pruning, felling etc. you should consider the following:

- City and Guilds/NPTC Qualifications (National Proficiency Test Council). The company should be able to produce certificates and a photo ID card (See example ID card below) to show that they have the relevant qualifications for the operations they are intending to carry out. There are separate qualifications for using a chain saw, felling different sized trees, climbing trees, operating a chain saw in a tree etc. It is the individuals who hold the qualification, so unless they are undertaking training, employees need to be qualified for the tasks they do.

Example City and Guilds/ NPTC Photo ID card:



(Sample ID card provided by City and Guilds September 2015, the appearance of cards issued before this date may vary slightly but are still valid)

- The company should be able to show you certificates of insurance for public liability and where the company has employees, employee liability as well.
- The company must work to the British Standard for Tree Work, BS 3998 and should be able to quote this if you ask them what the British Standard is. If you propose to carry out work to a protected tree with consent from the Council, this will be a condition of the approval.
- Ask for a written quotation, a reputable firm will be willing to do this. It would be advisable to get quotes from several different companies.
- Membership of an arboricultural organisation does not necessarily guarantee a contractor's level of competency, which will depend on the organisations terms of membership. However it does indicate that they are keeping up to date with industry changes. Examples would be the Arboricultural Association or the International Society of Arboriculture.

- The company should be able to show you copies of Health and Safety documents for their work type, risk assessments, inspection records for their climbing and rigging equipment (where applicable) etc. This will indicate that they are compliant with national Health and Safety requirements.

If you are seeking advice on a tree's health or safety, you are advised to look for:

- A company which holds professional indemnity insurance. This gives a degree of security should there be an adverse incident as a result of their comments.
- A formal qualification in arboriculture, forestry, horticulture etc would give an indication that they have the required technical knowledge about tree biology and mechanics to be able to advise you correctly. There are many different formal qualifications available examples of a few would be: National Vocational Qualifications (NVQ), Diploma or a Degree.
- A person who holds LANTRA Professional Tree Inspector. This shows that the individual has passed an assessment to show that their tree inspection skills are in line with the national standard. Holders of this award will be able to show a photo ID card.

If you are engaging an arboricultural consultant to produce a tree report for example, as a minimum they should hold the above mentioned insurance and a formal qualification.

Useful contacts:

www.kirklees.gov.uk/trees www.trees.org.uk www.trustmark.org.uk www.isa-arboriculture.org.uk

Please note that the information contained in this guidance note is for general information purposes only. The Council endeavours to keep the information accurate and up to date but makes no representations or warranties of any kind to this effect. You should note that the websites referred to in this guidance note are not under the control of the Council and their inclusion within it does not necessarily imply a recommendation or endorsement of any views expressed within them.